

**109+222 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-8155-2022 (O&M)
Date of decision : 26.07.2022**

Udayveer @ Anu

.....Petitioner

versus

The State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Ms. Srishti Sharma Advocate and
Mr. Gourav Datta, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

CRM-26028-2022

Application is allowed as prayed for.

CRM-26030-2022

Application is allowed as prayed for.

Annexures P-7 to P-11 are taken on record.

CRM-M-8155-2022

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.84 dated 09.05.2021, under Sections 376(2)(n), 384, 506 of IPC and Sections 67, 67-A of Information Technology Act, 2000 (challan was presented under Section 376 IPC and now charge has been framed under Section 376(2)(n) vide order dated 03.02.2022 by learned ASJ, SAS Nagar, Mohali), registered at Police Station Lalru, District SAS Nagar, Mohali.

As per the facts of the case, the present FIR was lodged by the prosecutrix (name concealed) stating therein that she got married with one Deepak in 2007 and out of the wedlock two children were born. Her

husband started job as Supervisor at Saraswati Agro Chemical India Pvt. Ltd. She also started working as Councillor in YTTS (Youth Technical Training Society) NGO at Zirakpur. She used to travel from Derabassi to Zirakpur by mini-bus. She got acquainted with the driver of the bus Udayvir @ Anu i.e. the petitioner. During this period, she developed friendly relations with driver of the bus and there was an exchange of the mobile numbers with each other. He transferred her contact numbers and the photographs in his mobile phone and thereafter, started blackmailing the prosecutrix and her family. In June, 2019, he criminally intimidated her and after taking her to the hotel committed rape upon her. He clicked the objectionable photographs of the prosecutrix and started blackmailing her. The complaint was lodged with the police to register the FIR and to take the legal action against the petitioner. On the commencement of the investigation, the petitioner was arrested on 9th May, 2021. Statement of the prosecutrix under Section 164 Cr.P.C. was recorded wherein she supported the case of the prosecution. On the conclusion of the investigation, challan was presented. Petitioner has approached the Court of learned Judge, Special Court, SAS Nagar, Mohali praying for grant of bail. After hearing counsel for the parties, the same was declined by the learned Judge, Special Court vide order dated 16.11.2021. Aggrieved by the same, petitioner is before this Court praying for grant of regular bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated by the prosecutrix in this case. She submits that the prosecutrix is not only married but mother of the two children and is of the age of majority. As per allegations, she voluntarily entered into relationship with the

petitioner and hence, the relationship between both of them at the most was consensual. Learned counsel has submitted that it has come during investigation that once the relationship between the petitioner and the prosecutrix was suspected by husband of the prosecutrix, the present FIR was lodged against the petitioner. She submits that during investigation, the swabs were taken which was sent to the FSL lab. As per report, the same is negative. She submits that if the relationship between the petitioner and the prosecutrix was consensual then the offence under Section 376 IPC would not be attracted. Learned counsel further submits that the prosecutrix is an educated woman and by no stretch of imagination, it can be inferred that the petitioner, who is driver by profession, was in a position to blackmail her, as alleged. She further argued that the petitioner has no criminal antecedents as he has never been involved in any other criminal offence. Even otherwise, she asserts that the prosecutrix and her husband are already examined and thus, there cannot be any threat on the part of the petitioner for scuttling the ongoing trial or tampering with the prosecution witnesses. He submits that petitioner is behind bars since 09.05.2021 and hence, further incarceration of the petitioner is totally unwarranted.

Learned State counsel submits that there are specific allegations against the petitioner. She further submits that though the prosecutrix is of the age of majority, however, she has supported the case of the prosecution in her statement under Section 164 Cr.P.C. while being examined before the trial Court. However, she submits that as per her instructions, the petitioner is not being prosecuted in any other case. She has submitted that in all, there are 24 prosecution witnesses, 03 witnesses

have already been examined.

I have heard counsel for the parties and perused the record. Admittedly the petitioner and the prosecutrix are of the age of majority. As per facts of the case, she is postgraduate and diploma holder and thus, an educated woman and she is mother of two children. So far, petitioner is concerned, he is the driver of the bus in which she used to travel. FSL report as submitted before this Court, does not match with the petitioner. There is nothing on record showing any criminal antecedents of the petitioner. Material witnesses already stand examined.

The veracity of the allegations would be assessed by the trial Court after conclusion of the trial. The trial of the case will take sufficient long time and no useful purpose will be served by keeping the petitioner in custody for such a long time. However, confining to the prayer made for the grant of bail, this Court is convinced that the counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

26.07.2022
m. sharma

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No